

**AN ORDINANCE BY
COUNCILMEMBER CLETA WINSLOW**

NO. 06-O-2054

**AS SUBSTITUTED BY
FINANCE AND EXECUTIVE COMMITTEE**

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE ATLANTA PUBLIC SAFETY AND JUDICIAL FACILITIES AUTHORITY FOR THE PURPOSE OF LEASING A PUBLIC SAFETY HEADQUARTERS FACILITY AND A PARKING DECK; AUTHORIZING ACKNOWLEDGEMENT OF SERVICE AND THE FILING OF AN ANSWER ON BEHALF OF THE CITY OF ATLANTA IN VALIDATION PROCEEDINGS TO BE BROUGHT VALIDATING THE ATLANTA PUBLIC SAFETY AND JUDICIAL FACILITIES AUTHORITY REVENUE BONDS (PUBLIC SAFETY FACILITY PROJECT), SERIES 2006 IN THE AGGREGATE AMOUNT OF \$50,000,000; AUTHORIZING THE EXECUTION DELIVERY AND PERFORMANCE OF A BOND PURCHASE AGREEMENT; AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF A CONTINUING DISCLOSURE AGREEMENT; AUTHORIZING THE APPROVAL OF AN OFFICIAL STATEMENT; AND FOR OTHER PURPOSES:

WHEREAS, the Atlanta Public Safety and Judicial Facilities Authority (the "Authority") has been created and is validly existing as a public body corporate and politic of the State of Georgia and a public corporation pursuant to the provisions of the War on Terrorism Local Assistance Act, O.C.G.A. §§ 36-75-1, et seq., as amended (the "Act") and a resolution adopted by the City Council of the City of Atlanta (the "City") on November 7, 2005 and approved by the Mayor of the City (the "Mayor") on November 14, 2005; and

WHEREAS, the Authority has the power under the Act, among other things, to acquire, construct, improve, or modify, to place into operation, and to operate or cause to be placed into operation, either as owner of all or of any part in common with others, a project or projects within the political subdivision in which the Authority is activated and within other political subdivisions, and to pay all or part of the cost of any such project or projects from the proceeds of revenue bonds of the Authority or from any contribution or loans by persons, firms, or corporations or any other contribution, all of which the Authority is authorized to receive, accept, and use, and the Authority has the power further to borrow money and issue its revenue bonds and bond anticipation notes from time to time and to use the proceeds thereof for the purpose of paying all or part of the cost of any project, including the cost of extending, adding to, or improving such project; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia of 1983 authorizes, among other things, any county, municipality or other political subdivision of the State of Georgia to contract, for a period not exceeding 50 years, with another county, municipality or political subdivision of services or for the provision or separate use of

facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the Authority and the City propose to acquire, construct, improve and modify a public safety headquarters facility and a parking deck (the "Project") to be located within the City; and

WHEREAS, pursuant to a resolution to be adopted by the Authority on September 15, 2006 attached hereto as Exhibit A (the "Bond Resolution") the Authority has authorized the issuance of its revenue bonds to be designated the "Atlanta Public Safety Judicial Facilities Revenue Bonds (Public Safety Facility Project), Series 2006", in the aggregate principal amount not to exceed \$50,000,000 (the "Series 2006 Bonds") to finance the initial costs of the Project; and

WHEREAS, the terms and provisions of the Series 2006 Bonds are set forth in the Bond Resolution; and

WHEREAS, the Authority and the City propose to enter into a Lease Agreement, dated as of October 1, 2006 (the "Lease Agreement"), pursuant to which the Authority will agree, among other things, to issue the Series 2006 Bonds and to cause the acquisition, construction, improvement and equipping of the Project and the City will agree among other things, to pay the Authority rental amounts sufficient to pay debt service on the Series 2006 Bonds and to levy an ad valorem property tax on all property in the City subject to such tax in the event that rental amounts derived from the Project are insufficient to pay debt service on the Series 2006 Bonds; and

WHEREAS, it is proposed that the City should authorize the execution, delivery and performance of a Bond Purchase Agreement (the "Purchase Agreement") among the Authority, the City and Citigroup Global Markets Inc. as senior underwriting manager, as representative for itself and Jackson Securities, LLC; Grigsby & Associates and Backstrom, McCarley Berry & Co., LLC, as underwriting co-managers (collectively, the "Underwriter"), providing for the sale of the Series 2006 Bonds to the Underwriter; and

WHEREAS, it is proposed that the City should authorize the execution, delivery and performance of a Continuing Disclosure Agreement, to be dated as of October 1, 2006 (the "Continuing Disclosure Agreement") among the City, the Authority and Digital Assurance Certification, Inc.; and

WHEREAS, it is proposed that the City should authorize the use and distribution of a Preliminary Official Statement in connection with the underwriting of the Series 2006 Bonds and authorize the use, distribution and execution of an Official Statement in connection with the underwriting of the Series 2006 Bonds and, in connection with the use, distribution and execution of an Official Statement, that the City will execute a certificate (the "Rule 15c2-12 Certificate") certifying that the information contained in the Preliminary Official Statement relating to the City, as of the date of the Rule 15c2-12 Certificate, is complete, true and accurate in all material respects and does not contain any untrue statement of material fact or omit to state

a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; and

WHEREAS, to accomplish the transactions contemplated hereby and the acquisition, design, construction, improvement and equipping of the Project, the City will convey, assign or otherwise transfer to the Authority its interest in (i) the current Atlanta Municipal Court site and any improvements thereon, described on Exhibit F attached hereto and as further described in Exhibit A to that certain Installment Sale Agreement, dated as of November 1, 1998 (the "Installment Sale Agreement"), between the City and Georgia Municipal Association, Inc. and (ii) those certain parcels of property described in Ordinance No. 05-O-1833 adopted by the City Council of the City on December 5, 2005, approved by the Mayor of the City on December 13, 2005 and attached hereto as Exhibit G (such parcels as so described in Ordinance No. 05-O-1833, the "Additional Parcels");

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA ordains as follows:

Section 1. Acknowledgment and Approval of Bond Resolution. The City Council of the City hereby acknowledges that it has received a copy of the Bond Resolution and hereby approves the terms and provisions thereof.

Section 2. Execution of Lease Agreement. The execution, delivery and performance of the Lease Agreement, in substantially the form attached hereto as Exhibit B, are hereby authorized and approved, provided that the sum of the scheduled annual rental payments set forth in Exhibit C to the Lease Agreement shall not exceed \$4,765,850 in any year. Provided that the annual rental payments set forth on Exhibit C to the Lease Agreement fall within the parameters established by this Ordinance, the Mayor is hereby authorized to execute and deliver the Lease Agreement and the City Clerk shall attest and imprint the seal of the City thereon. The Mayor may agree to such changes, insertions or omissions as may be necessary to effect the purposes thereof, and the execution of the Lease Agreement by the Mayor as hereby authorized shall be conclusive evidence of any such approval. Anything herein or in the Lease Agreement notwithstanding, the Chief Financial Officer of the City is hereby authorized to execute the Lease Agreement in the absence, unavailability, disability or illness of the Mayor.

Section 3. Execution of Purchase Agreement. The execution, delivery and performance of the Purchase Agreement, in substantially the form attached hereto as Exhibit C, are hereby authorized and approved. Provided that the final terms and conditions of the Purchase Agreement are within the parameters established by this Ordinance, the Mayor is hereby authorized to execute and deliver the Purchase Agreement and the City Clerk shall attest and imprint the seal of the City thereon. The Mayor may agree to such changes, insertions, omissions and final exhibits to the Purchase Agreement as may be necessary to effect the purposes thereof, and the execution of the Purchase Agreement by the Mayor as hereby authorized shall be conclusive evidence of such approval. Anything herein or in the Purchase Agreement notwithstanding, the Chief Financial Officer of the City is hereby authorized to execute the Purchase Agreement in the absence, unavailability, disability or illness of the Mayor.

Section 4. Execution of Continuing Disclosure Agreement. The execution, delivery and performance of the Continuing Disclosure Agreement, in substantially the form attached hereto as Exhibit D, is hereby authorized and approved. The Continuing Disclosure Agreement shall be executed on behalf of the City by the Mayor and the seal thereof impressed thereon and attested by the City Clerk. The Mayor may agree to such changes, insertions or omissions to the Continuing Disclosure Agreement as may be necessary to effect the purposes of the Continuing Disclosure Agreement, and the execution of the Continuing Disclosure Agreement by the Mayor as hereby authorized shall be conclusive evidence of such approval. Anything herein or in the Continuing Disclosure Agreement notwithstanding, the Chief Financial Officer of the City is hereby authorized to execute the Continuing Disclosure Agreement in the absence, unavailability, disability or illness of the Mayor.

Section 5. Official Statement. The City and its staff are authorized and directed to assist the Authority and the Underwriter in the preparation of a Preliminary Official Statement, in substantially the form attached hereto as Exhibit E, and Final Official Statement (collectively, the "Official Statement"). The Mayor is authorized to execute the Official Statement on behalf of the City and to execute the Rule 15c2-12 Certificate.

Section 6. Further Authorization. From and after the execution and delivery of the Lease Agreement, the proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents and certificates as may be necessary to carry out and comply with the provisions of the Lease Agreement and are further authorized to take any and all further actions and to execute and deliver any and all further documents and certificates as may be necessary or desirable in connection with the issuance of the Series 2006 Bonds and the execution, delivery and performance of the Lease Agreement, the Purchase Agreement and the Continuing Disclosure Agreement. All acts and doings of the officers, agents and employees of the City which are in conformity with the purposes and intents of this Ordinance and in furtherance of the issuance of the Series 2006 Bonds and the execution, delivery and performance of the Lease Agreement, the Purchase Agreement and the Continuing Disclosure Agreement shall be, and the same hereby are, in all respects, approved and confirmed.

Notwithstanding anything to the contrary stated herein, the Chief Financial Officer of the City is hereby authorized to sign any other documents or instruments required or necessary to effectuate the transactions contemplated by this Ordinance.

Section 7. Validation. The Mayor or Chief Financial Officer of the City each is hereby authorized to acknowledge service of the validation petition, on behalf of the City, to be filed by the District Attorney for the Atlanta Judicial Circuit seeking validation of the Series 2006 Bonds and to verify the allegations contained in an answer to be prepared by the City Attorney seeking validation of the Series 2006 Bonds and the security to be provided therefor.

Section 8. Annual Tax Levy. The City is hereby authorized to pay the Authority rental amounts sufficient to pay debt service on the Series 2006 Bonds and to levy an ad valorem property tax on all property in the City subject to such tax in the event that the rental amounts due under the Lease Agreement are insufficient to pay debt service on the Series 2006 Bonds. The obligation of the City to make the payments provided for pursuant to the terms of the Lease

Agreement shall constitute a general obligation of the City and a pledge of the full faith and credit of the City to provide the funds required to fulfill such obligation.

Section 9. Authorization of Conveyance. The City is hereby authorized to convey, assign or otherwise transfer to the Authority its interest in the current Atlanta Municipal Court site and any improvements thereon as described in the Installment Sale Agreement and the Additional Parcels. The Mayor is hereby authorized to execute such documents, including without limitation any deed, assignment or other document evidencing such conveyance or assignment, necessary to accomplish the transactions contemplated hereby and the acquisition, design, construction, improvement and equipping of the Project.

Section 10. Ordinance Constitutes Contract. The provisions, terms and conditions of this Ordinance shall constitute a contract by and between the City and the owners of the Bonds, and, upon the execution and delivery of the Lease Agreement, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interest of the owners of the Series 2006 Bonds, nor shall the City adopt any ordinance in any way ever adversely affecting the rights of such owners; provided, however, that the City may adopt such ordinance or resolutions supplemental hereto, as shall not be inconsistent with the terms and provisions hereof, to (i) correct any ambiguity or formal defect or omission or inconsistent provisions in this Ordinance, or (ii) to grant to or confer upon the owners of the Series 2006 Bonds any additional rights, remedies, power or authority that may be lawfully granted to or conferred upon such owners.

Section 11. Partial Invalidity. In case any one or more of the provisions of this Ordinance shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, such illegality or invalidity shall not affect any other provisions hereof unless expressly so held, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein, and this ordinance shall be construed to adopt, but not to enlarge upon, all applicable provisions of Georgia law, and, if any provisions hereof conflict with any applicable provision of such law, the latter as adopted by the legislature and as interpreted by the courts of this state shall prevail and shall be substituted for any provision hereof in conflict therewith.

Section 12. Repealer. All ordinances or parts of ordinances in conflict with this ordinance shall be and the same hereby are repealed.

Section 13. Effective Date. This Ordinance shall take effect immediately upon its adoption.

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW